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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,479	07/03/2003	Chun Yuen To	NTD 206-KFM	5917
7590	01/12/2006		EXAMINER	
Karl F. Milde, Jr. Esq. MILDE & HOFFBERG, L.L.P. Suite 460 10 Bank Street White Plains, NY 10606			GATES, ERIC ANDREW	
			ART UNIT	PAPER NUMBER
			3722	
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/613,479	TO, CHUN YUEN	
	Examiner Eric A. Gates	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-19 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 May 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to Applicant's Preliminary Amendment filed on 22 April 2004.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

3. Figures 20 and 21 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The abstract of the disclosure is objected to because it exceeds the maximum allowable length of 150 words. Correction is required. See MPEP § 608.01(b).
5. The disclosure is objected to because of the following informalities: The specification is replete with grammatical and spelling errors that require correction. For example, on page 1, the last sentence of paragraph 3 requires correction.

***Claim Objections***

6. Claims 1-13 are objected to because of the following informalities: The claims are replete with grammatical and spelling errors that require correction. For example, in claim 1, "a elongated plate" and "rings for clasp said sheets" require correction.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
8. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. Claim 1 recites the limitations "the cylindrical rod" in line 14, "said convex portion" in line 16, and "the ring elements" in lines 17-18. There is insufficient antecedent basis for these limitations in the claim.

b. Claims 2, 3 and 7 recite the limitation "said convex nesting portion" in lines 6-7. There is insufficient antecedent basis for this limitation in the claims.

c. Claim 2 recites the limitation "said concave nesting portion" in lines 7-8.

There is insufficient antecedent basis for this limitation in the claim.

d. Claim 2 recites the limitation "the centrally protruding outwards nesting portion" in lines 12-13. There is insufficient antecedent basis for this limitation in the claim.

e. Claim 7 recites the limitation "said concave nesting portion" in line 12.

There is insufficient antecedent basis for this limitation in the claim.

f. Claim 16 recites the limitation "an arc shaped top frusto-conical portion."

This statement is unclear, because the arc shaped top conflicts with the Webster's Online Dictionary definition of frustoconical, which is "of the shape of a frustum of a cone. The definition of frustum is given as "the part of a cone-shaped solid next to the base and formed by cutting off the top by a plane parallel to the base." For the purposes of examination, the shape as given in Figure 13 and referenced in the amendment as disclosing this shape per claim 16, has been assumed.

#### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 3-4, 6-7, and 9-13 are rejected under 35 U.S.C. 102(b) as being

anticipated by Kissel (U.S. Patent 4,690,580).

11. Regarding claim 1, Kissel discloses a ring binder mechanism for binding the sheets of loose leaves, the mechanism comprising: an elongated plate 1 that extends longitudinally; hinge plates 11/12 supported by said elongated plate for pivotal rotating relative to the elongated plate; rings 2/3 for clasping said sheets of loose leaves, each of the rings comprising a pair 2 and 3 of half ring elements, and the pair of half ring elements being attached on said hinge plates and being movable between a closed position and an opened position via said hinge plates; wherein nesting portions 6/7 of free ends of said pair of half ring elements form a nesting configuration, one half ring element having a concave portion 6 with a conical surface diminishing the cross-section of the cylindrical rod of the half ring element to a cylindrical tip, said concave portion and said convex portion 7 being symmetrical about an axis line of the cylindrical rods of the ring elements, so that when the pair of half ring elements are in the closed condition, the nesting portions of said pair of half ring elements are aligned to each other and nested together tightly.

12. Regarding claim 3, Kissel discloses a ring binder mechanism according to claim 1, wherein the nesting portion with a centrally convex portion 7 is formed in a free end of one half ring element 3 of said pair of half ring elements, and the nesting portion with a centrally concave portion 6 is formed in a free end of the other engaging half ring element 2, said convex nesting portion has a protruding portion 7, the protruding portion

is connected to a surface of the cylindrical rod of the half ring element via an annulus internal end surface 10, a diameter of the protruding portion 7 on the internal end surface 10 is smaller than that of the cylindrical rod of the half ring element 3, said concave nesting portion 6 has a opening 9 that is formed from its external end surface, a diameter of the opening 9 on the external end surface is smaller than that of the cylindrical rod of the half ring element 2 and slightly larger than that of said protruding portion 7 on its internal end surface, when the half ring elements are in the closed condition, the external end surface 9 of the concave nesting portion 6 and the internal end surface 8 of convex nesting portion 7 form a surface-engagement, so that the convex nesting portion is nested in the concave nesting portion.

13. Regarding claim 4, Kissel discloses a ring binder mechanism according to claim 3, wherein the protruding portion 8 of said convex nesting portion 7 has a conical shape, the opening of said concave nesting portion 6 has a conical hole 9 that is formed from its external end surface and an internal cylindrical hole 6 that is connected to said conical hole.

14. Regarding claim 6, Kissel discloses a ring binder mechanism according to claim 3, wherein the protruding portion 7 of said convex nesting portion 7 has a cylindrical shape, and the opening of said concave nesting portion 6 has a shape of an internal cylindrical hole 6 (applicant does not require the hole to be cylindrical from the external end surface of the ring).

15. Regarding claim 7, Kissel discloses a ring binder mechanism according to claim 1, wherein the nesting portion 7 with a centrally convex portion 7 is formed in a free end

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of one half ring element 3 of said pair of half ring element pairs, and the nesting portion 6 with a centrally concave portion 6 is formed in a free end of the other engaging half ring element 2, said convex nesting portion 7 has a protruding conical portion 8, the conical portion 8 is connected to a surface of the cylindrical rod of the half ring element via an annulus internal end surface 10, a diameter of the conical portion 8 on the internal end surface is smaller than that of the cylindrical rod of the half ring element 3, said concave nesting portion has a conical hole 9 formed from the external end surface, a diameter of the conical hole 9 on the external end surface is smaller than that of the cylindrical rod 2 of the half ring element and substantially equal to that of said protruding conical portion 8 on the internal end surface, when the half ring elements are in the closed condition, the external end surface 8 of the concave nesting portion 6 and the internal end surface (not labeled, see Figure 4) of the convex nesting portion 7 form a surface-engagement, and the conical portion 8 of the convex nesting portion 7 and the conical hole (left end of 6 in Figure 4) of the concave nesting portion 6 form an engagement, so that the concave nesting portion is nested in the convex nesting portion.

16. Regarding claim 9, Kissel discloses a ring binder mechanism according to claim 1, wherein one half ring element 2 or 3 of said pair of half ring elements of said ring binder mechanism has a straight side.

17. Regarding claim 10, Kissel discloses a ring binder mechanism according to claim 1, wherein two rings 2/3 are provided in said ring binder mechanism.

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18. Regarding claim 11, Kissel discloses a ring binder mechanism according to claim 1, wherein said rings 2/3 are made of metal material (see page 1, line 24), and the metal material can be steel (the disclosed metal could certainly be steel).
19. Regarding claim 12, Kissel discloses a ring binder mechanism according to claim 1, wherein said rings 2/3 are made of plastic material (see page 1, lines 35-38).
20. Regarding claim 13, Kissel discloses a ring binder mechanism according to claim 1, wherein said rings 2/3 are formed integrally with said hinge plates 11/12 (see Figure 6).

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
22. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of Nelson (U.S. Patent 778,992).
23. Regarding claim 2, Kissel discloses a ring binder mechanism according to claim 1, wherein the nesting portion 7 with a centrally convex portion 7 is formed in a free end of one half ring element 3 of said pair of half ring elements, and the nesting portion 6 with a centrally concave portion 6 is formed in a free end of the other engaging half ring element 2, said convex nesting portion has an annular conical surface 7, said concave nesting portion has a conical hole 6, a diameter of the conical hole 6 on the external end

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surface is smaller than that of the cylindrical rod 2 of the half ring element 2, when the half ring elements are in the closed condition, the connecting portion between the external end surface of the concave nesting portion and the conical hole thereof engages with the annular conical surface of the convex nesting portion, so that the centrally convex nesting portion is nested in the centrally concave nesting portion.

24. Kissel does not disclose that the conical hole 6 is formed from the external end surface of the half ring element, or a cone angle of said conical hole is smaller than that of the annular conical surface of the centrally protruding outwards nesting portion. Nelson teaches the use of a conical hole (not labeled, see Figure 4) at the external end of a half ring element 14 for the purpose of retaining an arc shaped conical protrusion (not labeled, see Figure 4) on the end of half ring 13. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder mechanism of Kissel with the conical hole of Nelson in order to have a binder with simplified nesting portions.

25. Regarding the cone angle of the conical hole being smaller than that of the cone angle of the conical surface, applicant does not specifically state any advantage to this configuration. Applicant generally states that the embodiment of claim 2 creates a tighter engagement between the two nesting portions and aids in misalignment between the two, but from applicant's drawing in Figure 8, the cone angles of this embodiment does not appear to present any advantage over the cone angles of Kissel, and it has been held that the configuration of an invention is a matter of choice that a person of ordinary skill in the art would have found obvious unless there is persuasive evidence

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that the particular configuration of the claimed invention is significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Therefore it would have been obvious to one of ordinary skill in the art to have selected any cone angles necessary or expedient to create a better fit between the nesting portions.

26. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of Nelson.

27. Regarding claim 14, the modified invention of Kissel discloses the invention substantially as claimed, except Kissel does not disclose that the protruding conical portion of the convex nesting surface comprises an arc shaped conical surface. Nelson teaches the use of a protruding conical portion of a convex nesting surface (right end of leg 13 in Figure 4) comprises an arc shaped conical surface for the purpose of fitting into a conical hole in leg 14. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder mechanism of Kissel with the conical portion of Nelson in order to have a binder with simplified nesting portions.

28. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of Nelson (U.S. Patent 778,992).

29. Regarding claim 15, the modified invention of Kissel discloses the invention substantially as claimed, except Kissel does not disclose that the protruding conical portion of the convex nesting surface comprises an arc shaped conical surface. Nelson teaches the use of a protruding conical portion of a convex nesting surface (right end of leg 13 in Figure 4) comprises an arc shaped conical surface for the purpose of fitting

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into a conical hole in leg 14. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder mechanism of Kissel with the conical portion of Nelson in order to have a binder with simplified nesting portions.

30. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of Nelson and further in view of Stevens (U.S. Patent 2,460,718).

31. Regarding claim 16, the modified invention of Kissel discloses the invention substantially as claimed, except Kissel does not disclose the protruding conical portion of the convex nesting portion comprises an arc shaped top frusto-conical portion.

32. Stevens teaches the use of a protruding conical portion that comprises an arc shaped top frusto-conical portion 27 for the purpose of having a better fit in the arc shaped frusto-conical hole 26. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder mechanism of Kissel with the arc shaped frusto-conical hole of Stevens in order to have a binder with better fitting nesting portions.

33. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of Dorfman et al (U.S. Patent 3,995,961).

34. Regarding claim 17, Kissel discloses a ring binder mechanism according to claim 1, wherein the nesting portion 7 with a centrally convex portion 7 is formed in a free end of one half ring element 3 of said pair of half ring element pairs, and the nesting portion 6 with a centrally concave portion 6 is formed in a free end of the other engaging half ring element 2, said convex nesting portion 7 has a protruding conical portion 8, the

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conical portion 8 is connected to a surface of the cylindrical rod of the half ring element via an annulus internal end surface 10, a diameter of the conical portion 8 on the internal end surface is smaller than that of the cylindrical rod of the half ring element 3, said concave nesting portion has a cylindrical hole 6, a diameter of the cylindrical hole 6 on the external end surface is smaller than that of the cylindrical rod 2 of the half ring element and substantially equal to that of said protruding conical portion 8 on the internal end surface, when the half ring elements are in the closed condition, the external end surface 8 of the concave nesting portion 7 and the internal end surface (not labeled, see Figure 4) of the convex nesting portion 6 form a surface-engagement, and the conical portion 8 of the convex nesting portion 7 and the cylindrical hole 6 of the concave nesting portion 6 form an engagement, so that the concave nesting portion is nested in the convex nesting portion.

35. Kissel does not disclose the cylindrical hole is formed from its external end surface. Dorfman et al teaches the use of a cylindrical hole (not labeled, see Figure 5) formed from the external end surface of leg 32 for the purpose of retaining a cylindrical protrusion (not labeled, see Figures 5-7). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder mechanism of Kissel with the cylindrical hole of Dorfman et al. in order to have a binder with better fitting nesting portions.

36. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of Nelson and further in view of Stevens (U.S. Patent 2,460,718).

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37. Regarding claim 18, the modified invention of Kissel discloses the invention substantially as claimed, except Kissel does not disclose the protruding conical portion of the convex nesting portion comprises an arc shaped top frusto-conical portion.

38. Stevens teaches the use of a protruding conical portion that comprises an arc shaped top frusto-conical portion 27 for the purpose of having a better fit in the arc shaped frusto-conical hole 26. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder mechanism of Kissel with the arc shaped frusto-conical hole of Stevens in order to have a binder with better fitting nesting portions.

39. Claims 5 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel in view of To et al. (U.S. Patent Publication 2003/0044221 A1).

40. Regarding claim 5, Kissel discloses a ring binder mechanism according to claim 4, the opening of said concave nesting portion 6 has a conical hole 9 that is formed from its external end surface and an internal cylindrical hole 6 that is connected to said conical hole 9. Kissel does not disclose that the protruding portion of said convex nesting portion has a shape that consists of a cylindrical tip and an arc-shaped annular conical base portion.

41. To et al. teaches the use of a protruding portion 52 of a half ring element 48 that has a shape consisting of a cylindrical tip and an arc-shaped annular conical base portion (see Figure 2 and paragraph 26) for the purpose of providing improved alignment and mating with the corresponding recess on ring 50. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was

made to have combined the binder mechanism of Kissel with the protruding portion of To et al. in order to have a binder with nesting portions that fit and align better.

42. Regarding claim 19, the modified invention of Kissel as disclosed in claim 5 above discloses the invention substantially as claimed.

43. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kissel.

44. Regarding claim 8, Kissel discloses the invention substantially as claimed, except Kissel does not disclose that the pair of half ring elements of said ring binder mechanism form a circular ring. However, it is well known in the art to use ring elements that form a circular ring for the purpose of having a binder in which the pages turn more freely. Therefore, examiner takes official notice that it would have been obvious at the time the invention was made for one of ordinary skill in the art to have combined the binder mechanism of Kissel with a circular ring in order to have a stable ring binder, due to the ring engagement, that allows for easier page turning.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

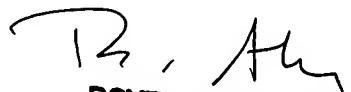
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG  
5 Jan 2006



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER